

STATE OF INDIANA



INDIANA UTILITY REGULATORY COMMISSION
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FILED

MAR 16 2005

INDIANA UTILITY
REGULATORY COMMISSION

IN RE THE VERIFIED PETITION)
OF BARRINGTON DEVELOPMENT)
CO., LLC V. NISOURCE, INC., FOR)
REFUND OF CONTRIBUTIONS)
TOWARD THE COST OF)
EXTENDING SERVICE)

CAUSE NO. 42785

You are hereby notified that on this date the Indiana Utility Regulatory Commission ("Commission") has caused the following entry to be made:

On February 7, 2005, Barrington Development Co., LLC ("Petitioner") filed its *Verified Petition for Refund of Contributions Toward the Cost of Extending Service* against Nisource, Inc. ("Nisource") as captioned above.

On February 28, 2005, Nisource filed *Motion of Nisource Inc. to be Dismissed*, an answer on behalf of NIPSCO, and NIPSCO's *Motion to Transfer*. In the motion for dismissal, Nisource alleged that it had been named in error, and the real party in interest with Barrington was NIPSCO, as reflected by NIPSCO's concurrently-filed answer. In the *Motion to Transfer*, Nisource/NIPSCO alleged that this action should be moved to the Commission's Consumer Affairs Division ("CAD"), because I.C. 8-1-2-54 prohibits complaints against utilities by individual customers.

On March 3, 2005, Petitioner filed its *Response to Motion of Nisource, Inc. to be Dismissed as a Respondent Herein and for Amendment of the Caption to Reflect Such Dismissal*, in which Petitioner indicated that it had no objection to the dismissal of Nisource as a respondent and the interposition of NIPSCO as a respondent in this cause. On the same day, Petitioner filed its *Response to Motion to Transfer*. In that Motion, Petitioner countered that notwithstanding NIPSCO's position regarding I.C. 8-1-2-54, the statute under I.C. 8-1-2-34.5 allowed a single customer to pursue a complaint against a utility. Further, petitioner argued that the issues surrounding extension of service were larger than those contemplated by a proceeding at the CAD, and therefore were worthy of hearing in a docketed proceeding.

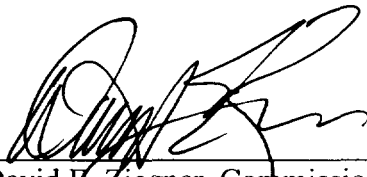
On March 11, 2005, Petitioner filed its *Answer to Counterclaim*.

The Presiding Officers, having read the referenced pleadings and being duly advised in the premises, hereby hold as follows:

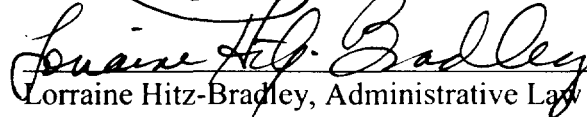
The caption of this matter is hereby amended to show NIPSCO as the proper respondent in this cause, and Nisource is hereby dismissed from this action.

As to NIPSCO's request to transfer this matter to the CAD, we deny that request. We note that Petitioner cited I.C. §§8-1-2-34.5, 8-1-2-58, and 8-1-2-69 in support of the requested relief. Petitioner does not request that we proceed under section 54. As noted above, section 34.5 governs the ability of the Commission to oversee the relationship between utilities and their customers. Sections 58 and 69 speak to the Commission's power to investigate a utility's practices, acts, rates, etc. In citing to all three sections, the petition has invoked our power to investigate.¹ We choose to proceed with this cause as a docketed proceeding and thus deny NIPSCO's request for a transfer to the Consumer Affairs Division.

IT IS SO ORDERED.



David E. Ziegner, Commissioner



Lorraine Hitz-Bradley, Administrative Law Judge

Date: March 16, 2005

¹ *Indiana Forge and Machine Co., v. NIPSCO*, 396 N.E.2d 910, 914 (Ind. App. 1979), *rev'd on other grounds, Austin Lakes Joint Venture v. Avon Utilities, Inc.* 648 N.E.2d 641 (Ind. 1995).